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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,404	10/28/2003	William L. Grilliot	MOR3334P0890US	5637
32116	7590	05/26/2005	EXAMINER	
WOOD, PHILLIPS, KATZ, CLARK & MORTIMER 500 W. MADISON STREET SUITE 3800 CHICAGO, IL 60661			HOEY, ALISSA L	
			ART UNIT	PAPER NUMBER
			3765	

DATE MAILED: 05/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary**Application No.**

10/695,404

Applicant(s)

GRILLIOT ET AL.

Examiner

Alissa L. Hoey

Art Unit

3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This is in response to amendment received 03/15/05. Claim 1 has been currently amended along with the specification to overcome objections made by the Examiner in Office Action of 12/23/04. Claims 1-4 have been finally rejected below.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Grundstrom (US 2,127,355).

In regard to claim 1, Grundstrom teaches a pair of protective pants (10) having an upper portion (11), which when worn covers a lower region of a wearer's torso, and two leg portions each of which when worn covers one of the wearer's legs (figure 1). Each leg portion has an upper region which extends downwardly from the upper portion (11) and a lower region (12) which extends upwardly from a lower end of the leg portion toward the upper region (11). The lower region (12) terminates not higher than where the leg portion when worn covers the wearer's knee (page 1, column 2, lines 20-22). The lower region has a layer of puncture resistant material from hot splashing molten metal or the like (page 1, column 2, lines 4-6 and page 1, column 1, lines 5-8). The puncture resistant material (12) is made from a cloth fabric and extends upwardly from

the lower end of the leg portion and surrounds the lower end of the leg portion (page 1, column 2, lines 4-6).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grundstrom in view of Baxter (US 5,918,319).

Grundstrom teaches a protective pant garment as described above in claim 1. However, Grundstrom fails to teach the upper portion and the upper regions of the leg portions having a layer of abrasion-resistant material and having one or more inner layers.

In regard to claims 2-4, Baxter teaches a work pant garment (10) comprised of an abrasion-resistant material (12, 14, 15) in the upper portion (15) and leg portions (12, 14). Further, Baxter teaches the upper portion and the leg portions have one or more inner layers (11).

It would have been obvious to have provided the protective pant with puncture resistant lower portion of Grundstrom with the at least one inner layer and abrasion resistant material on the upper portion of the pant and the leg portions, since the protective pants of Grundstrom provided with abrasion resistant upper portions and at least one inner layer would provide a garment that not only protects the user during

Art Unit: 3765

work from hazardous conditions but also protects the garment from getting holes and therefore prolonging the life of the garment.

Response to Arguments

6. Applicant's arguments filed 03/15/05 have been fully considered but they are not persuasive. Applicant's remarks have been reviewed by the Examiner and discussed below.

I) Applicant argues that Grundstrom (US 2,127,355) fails to teach puncture-resistant lower regions of a pant leg.

Examiner disagrees because Grundstrom teaches lower pant leg regions comprised of a material that is puncture resistant from hot splashing molten metal or the like. The claim does not require what the puncture resisting material is, so as long as Grundstrom teaches a puncture resistant material it reads on the limitation as claimed.

II) Applicant argues that Grundstrom in view of Baxter (US 5,918,319) is not an obvious combination to reject claims 2, 3 and 4.

Examiner notes that Grundstrom teaches a protective pant and Baxter teaches upper leg portions of a protective pant having abrasion resistant material with one or more inner layers. Adding the abrasion resistant material with inner layer(s) in the upper leg portions of Grundstrom would not only provide a pant garment that has puncture resistant lower leg portions preventing molten metal from penetrating but also provides upper leg portions that are durable providing protection and insulation to user's skin below the pant garment.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

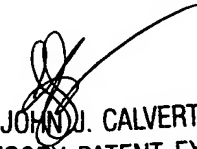
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alissa L. Hoey whose telephone number is (571) 272-4985. The examiner can normally be reached on M-F (8:00-5:30) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (571) 272-4983. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3765

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ALH
May 17, 2005


JOHN J. CALVERT
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700